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Applicant(s): Freeman, et al

Assignee: Samsung Electronics Co. Ltd.

Title: Wearable Device

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MAIL STOP: Appeal Brief – Patents

Commissioner for Patents

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BRIEF ON APPEAL Pursuant to 37 C.F.R. §41.37

Pursuant to the Notice of Appeal dated 04-20-07, please accept herewith
Applicant's Brief on Appeal.

The fee for filing the brief required by 37 CFR § 41.20(b) (2) is paid
herewith.

Respectfully,

A handwritten signature in black ink, appearing to read "Howard R. Popper". The signature is fluid and cursive, with a large initial "H" and a long, sweeping underline.

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<u>I.</u>	<u>Real Party In Interest:</u>	<u>4</u>
<u>II.</u>	<u>Related Appeals And Interferences:</u>	<u>5</u>
<u>III.</u>	<u>Status of Claims:</u>	<u>6</u>
<u>IV.</u>	<u>Status of Amendments:</u>	<u>7</u>
<u>V.</u>	<u>Summary of Claimed Subject Matter:</u>	<u>8</u>
<u>VI.</u>	<u>Grounds of Rejection to be Reviewed on Appeal</u>	<u>9</u>
<u>VII.</u>	<u>ARGUMENT</u>	<u>10</u>
	A. As to Claim 13:.....	10
	B. As to Claim 14-17:	12
	<u>CONCLUSION.....</u>	<u>13</u>
<u>VIII.</u>	<u>Claims Appendix.....</u>	<u>14</u>
<u>IX.</u>	<u>Evidence Appendix: (None).....</u>	<u>15</u>
<u>X.</u>	<u>Related Proceedings Appendix: (None)</u>	<u>16</u>

I. Real Party In Interest:

- a. Samsung Electronics Co., Ltd. is the real party in interest.

II. Related Appeals And Interferences:

- a. There are no related appeals or interferences.

III. Status of Claims:

- a. Claims 13–17 are pending in the application;
- b. No claims are allowed;
- c. Claims 1–12 and 18–39 were cancelled;
- d. Claims 13–17 are rejected;
- e. Claims 13–17 are appealed.

IV. Status of Amendments:

- a. No amendments were presented after the Final Rejection

V. Summary of Claimed Subject Matter:

Claim 13 is directed to a wearable article of clothing (10), comprising: a flexible strap (22, Fig. 1, Page 5) configured and sized to secure onto a wearer, the flexible strap comprising a non-woven holographic layer (29, Figs. 2A, 2B, Page 6) covering at least a portion of the strap's or surface.

Claim 14 depends from claim 13 and adds the limitation wherein the holographic layer (29, Fig. 2A, Page 6) presents a holographic image of one of the following: leather and metal.

Claim 16 depends from claim 13 and adds the limitation that the holographic layer is removable (Page 7, Claim 15).

Claim 17 depends from claim 13 and adds the limitation that a display element (12, Page 5) connected to the strap (22); and circuitry (36, 39, 40, Page 7) connected to the display element for controlling the display presented by the display element (12,

Claim 18 depends from claim 16 and adds the limitation that the display element comprises a flexible display element.

VI. Grounds of Rejection to be Reviewed on Appeal

Whether pending Claims 13–17 are unpatentable under 35 USC §102(b) as being anticipated by Jachimowicz U.S. Patent U.S. Patent No. 6,096,666.

VII. ARGUMENT

A. As to Claim 13:

Claims 13–17 are rejected under 35 U.S.C. 102(e) as being anticipated by Jachimowicz 6,096,666. Claim 13 defines a flexible strap that comprises a non-woven holographic layer covering at least a portion of the strap's visible exterior surface. The Examiner had rejected claims 13–17, all of the claims pending in the application, on the basis of Jachimowicz, US 6,096,666 issued 08–01–2000 on an application filed in the US on 04–29–1998.

Specifically, in attempting to read claims 13–17 on the Jachimowicz reference the Examiner had referred to (a) col. 2, lines 18–27; (b) col. 2, lines 48–seq.; and (c) col. 3, lines 3–23. Applicants respectfully submit that the cited portions of the Jachimowicz reference do not anticipate claims 13–17. To demonstrate, applicants' claim 13 is compared side by side to the cited portions of the Jachimowicz disclosure:

Applicants' Claim 13:

A wearable article of clothing, comprising: a flexible strap configured and sized to secure onto a wearer, the flexible strap comprising a non-woven holographic layer covering at least a portion of the strap's surface.

Jachimowicz, col. 2, lines 18–27:

20 Briefly stated, provided is a textile fiber that selectively absorbs and reflects different wavelengths of light, using the interference properties of light to accomplish this. A plurality of these textile fibers in combination form a holographic textile fabric. The plurality of textile fibers are characterized as including a central core and a plurality of layers of an optical media overcoating the central core. A plurality of interference patterns are created as a result of an incident light upon the plurality of holographic fibers, that in combination form colors, patterns and images.

Comparing the above, it is apparent that Jachimowicz relates to textile holographic fibers and repeatedly uses terms such as “woven” and “interwoven” fibers. No where does the Jachimowicz reference disclose any of the particular limitations explicitly set forth in claim 13, namely: flexible strap, sized to secure onto a wearer, or non-woven that are clearly enumerated in claim 13. Accordingly, it is only by reading out of claim 13 these terms that the Examiner could reject claim 13 as “fully met” or unpatentable over Jachimowicz. Applicants submit that a rejection so made is improper. Further, a text search of the Jachimowicz reference shows that the limitations set out above in claim 13 are not to be found anywhere else in the Jachimowicz reference.

A comparison of other portions of Jachimowicz cited by the Examiner, i.e., lines 48–seq.; and (c) col. 3, lines 3–23, yields similar “not found therein” results:

Applicants’ Claim 13: _____

Jachimowicz,

A wearable article of clothing,
comprising:

a flexible strap configured and sized to secure onto a wearer, the flexible strap comprising a non-woven holographic layer covering at least a portion of the strap's visible exterior surface.

DETAILED DESCRIPTION OF THE DRAWINGS

Holographic textile fibers can be utilized as clothing fibers that selectively absorb or reflect different wavelengths of light using layers of transparent optical media with differing indices of refraction. When these layers of differing indices of refraction are positioned correctly with respect to incident light, colors, patterns and images are formed by the resulting interference patterns. This is standard in holograms and multi-layer interference coatings. Holograms use patterns of varying index of refraction to create an interference pattern which replicates an object and forms a three-dimensional image. Multi-layer interference coatings are designed to selectively reflect a particular band of wavelengths, while transmitting others. When utilizing a plurality of these holographic optical fibers to form a holographic textile fabric, the resulting interference patterns of the plurality of holographic textile fibers form varying colors, patterns, and images, and thus can be utilized to form displays in textile fabrics, more particularly in clothing.

Referring now to FIG. 1 illustrated is a prior art multi-layer filter device 10, including a multi-layer interference

Again, a complete search of the Jachimowicz reference cited by the Examiner, as well as a search of the entire Jachimowicz reference, show that the limitations e.g., "non-woven", or "strap" set out above in claim 13 are not to be found anywhere in the Jachimowicz reference.

B. As to Claim 14-17:

On the same basis the further limitations set forth in dependent claims 14-17, inter alia, leather, metal, removable are not anywhere found in the Jachimowicz reference.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). See also MPEP § 2131.02. "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). *Jachimowicz* does not teach or

suggest a flexible strap, *Jachimowicz* does not teach or suggest a flexible *strap* that *is configured and sized*, as applicants recite; *Jachimowicz* does not *teach* a suggest flexible *strap, configured and secured onto a wearer*, comprising *a non-woven holograph layer*.

CONCLUSION

The Final Official Action improperly found the appealed claims unpatentable over *Jachimowicz* by reading out all of the limitations that distinguish these claims from *Jachimowicz*. For at least these reasons, Appellant respectfully requests reversal of the Final Official Action and allowance of the pending claims 13–17.

VIII. Claims Appendix

1–12. (Cancelled)

13. (Previously Presented) A wearable article of clothing, comprising:

a flexible strap configured and sized to secure onto a wearer, the flexible strap comprising a non-woven holographic layer covering at least a portion of the strap's visible exterior surface.

14. (Original) The article of claim 13 wherein the holographic layer presents a holographic image of one of the following: leather and metal.

15. (Original) The article of claim 13 wherein the holographic layer is removable.

16. (Original) The article of claim 13 further comprising:

a display element connected to the strap; and

circuitry connected to the display element for controlling the display presented by the display element.

17. (Original) The article of claim 16 wherein the display element comprises a flexible display element.

18–39. (Cancelled)

IX. Evidence Appendix: (None)

X. Related Proceedings Appendix: (None)